

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**VIRNETX INC. AND
SCIENCE APPLICATIONS
INTERNATIONAL CORPORATION,**

Plaintiffs,

v.

APPLE INC.

Defendant.

§
§
§
§
§
§
§
§
§
§
§

Civil Action No. 6:10-cv-417

JURY TRIAL DEMANDED

**UNOPPOSED MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEFING IN
SUPPORT OF APPLE'S RULE 60(b) MOTION FOR RELIEF FROM JUDGMENT**

Pursuant to Local Rule C.V. 7(f), Defendant Apple Inc. hereby moves for leave to file the five-page supplemental brief that is filed concurrently on today's date, in further support of Apple's Rule 60(b) Motion for Relief from Judgment. This motion is unopposed by VirnetX Inc. and Apple Inc. will not oppose a response by VirnetX Inc. in the event VirnetX Inc. decides to respond.

The brief is necessary to explain the effect of two final written decisions of the Patent Trial and Appeal Board, issued on July 14, 2020, which held that U.S. Patent No. 6,502,135 ("135 patent") and U.S. Patent No. 7,490,151 ("151 patent") are unpatentable. *Mangrove Partners Master Fund, Ltd. v. VirnetX Inc.*, IPR2015-01046, Paper 112 (PTAB July 14, 2020) (attached as Exhibit A); *Mangrove Partners Master Fund, Ltd. v. VirnetX Inc.*, IPR2015-01047, Paper 122 (PTAB July 14, 2020) (attached as Exhibit B) (collectively, the "*Mangrove* Decisions").

The underlying judgment in this case (ECF No. 1082) rests on the assumption that Apple infringed four valid patents, including the '135 and '151 patents. Apple seeks leave to file the supplemental brief to address the effect of the *Mangrove* Decisions on Apple's Rule 60(b) motion, which argues that that judgment should be set aside. Specifically, the supplemental brief explains why the *Mangrove* Decisions further support Apple's request for relief from the judgment under Rule 60(b) and require dismissal of all claims and complete restitution in Apple's favor.

Apple respectfully requests that the Court grant leave to file the supplemental brief filed concurrently in support of Apple's Rule 60(b) motion.

Dated: August 20, 2020

Respectfully submitted,

By: /s/ William F. Lee, with permission by
Michael E. Jones

William F. Lee
william.lee@wilmerhale.com
WILMER CUTLER PICKERING
HALE AND DORR LLP

60 State Street
Boston, MA 02109
Telephone: (617) 526-6000

Gregory S. Arovas
greg.arovas@kirkland.com
Robert A. Appleby
robert.appleby@kirkland.com
Jeanne M. Heffernan
jeanne.heffernan@kirkland.com
Joseph A. Loy
joseph.loy@kirkland.com
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

John C. O'Quinn
john.oquinn@kirkland.com
KIRKLAND & ELLIS LLP
655 Fifteenth Street, N.W.
Washington, D.C. 20005
Telephone: (202) 879-5000
Facsimile: (202) 879-5200

Michael E. Jones
Texas Bar No. 10969400
mikejones@potterminton.com
POTTER MINTON
A Professional Corporation
110 N. College Avenue, Suite 500
Tyler, Texas 75702
Telephone: (903) 597-8311
Facsimile: (903) 593-0846

Attorneys for Apple Inc.